

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

IN RE: RASHAWN MADARIS	:	APPEAL NO. C-070358 TRIAL NO. 07-2052
	:	
	:	<i>JUDGMENT ENTRY</i>
	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Appellant, Rashawn Madaris, appeals the judgment of the Hamilton County Juvenile Court adjudicating him delinquent for an act that, if he had been an adult, would have constituted the offense of robbery. He was adjudicated delinquent after a trial before a magistrate.

One evening, Tyrelle Horne and his sister, Tyarra Dixon, were crossing a street when they were approached by Marquel Tolliver. Madaris had been walking with Tolliver, but he remained a short distance away as Tolliver approached Horne and Dixon.

Horne testified that Tolliver had asked him what was in his pockets. Horne said he had nothing, and he refused to permit Tolliver to put his hands in his pockets.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

Tolliver then told Madaris that Horne would not let him check his pockets, and Tolliver stated that he would have to get out his gun. After Horne had seen a bulge in Tolliver's coat pocket, he permitted him to check his pockets. Tolliver discovered that there was nothing in Horne's possession, and he and Madaris walked away together.

Dixon's testimony essentially corroborated that of Horne, with Dixon adding that Madaris had looked up and down the street while Tolliver was confronting Horne. According to Dixon, it had appeared that Madaris had been acting as a lookout.

In a single assignment of error, Madaris now argues that the state failed to produce sufficient evidence that he had aided or abetted the robbery.

In the review of the sufficiency of the evidence to support a conviction, the relevant inquiry for the appellate court "is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt."²

R.C. 2911.02(A)(3), the robbery statute, provides that "[n]o person, in attempting or committing a theft offense * * * shall * * * [u]se or threaten the immediate use of force against another." The statute governing complicity, R.C. 2923.03(A)(2), states that "[n]o person, acting with the kind of culpability required for the commission of an offense, shall * * * [a]id or abet another in committing the offense." A defendant's mere association with a principal, or his mere approval or acquiescence in the principal's actions, is not enough to establish that the defendant

² *State v. Waddy* (1992), 63 Ohio St.3d 424, 430, 588 N.E.2d 819.

aided or abetted the principal; the defendant must have assisted, incited, or encouraged another to commit the offense.³

In this case, the delinquency adjudication was in accordance with the evidence. Tolliver's comment to Madaris about Horne's resistance indicated that the two were acting in concert. And Dixon's testimony established that Madaris had been an active participant, acting as the lookout. We overrule the assignment of error and affirm the judgment of the juvenile court.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

SUNDERMANN, P.J., HILDEBRANDT and CUNNINGHAM, JJ.

To the Clerk:

Enter upon the Journal of the Court on February 20, 2008
per order of the Court _____.
Presiding Judge

³ *State v. Prichard* (Feb. 7, 1996), 1st Dist. No. C-941011.